

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments, )  
FM Broadcast Stations )  
(The Dalles, Tualatin, Eugene, Albany, )  
Lebanon, Paisley, Diamond Lake, Oregon )  
and Goldendale, Washington) )

MB Docket No. 05-10

To: Marlene H. Dortch, Secretary

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Attn: Chief, Audio Division  
Media Bureau

REPLY COMMENTS OF CUMULUS LICENSING LLC

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### Attachments:

Engineering Statement of Jefferson Brock

Declaration of Lewis W. Dickey, Jr., Chairman, President and Chief Executive Officer  
Of Cumulus Media, Inc.

### Summary

Cumulus Licensing LLC ("Cumulus") is the licensee of Station KNRQ-FM, Eugene, Oregon. Station KNRQ-FM is a Class C facility operating on Channel 250C. On October 4, 2005, the Commission issued a Public Notice (Report No. 2727) inviting the filing of Reply Comments in response to a Petition for Rule Making (RM-11279) filed by four broadcasters in northern Oregon, identified herein as the "Joint Parties". Cumulus is directly and adversely affected by one aspect of the Joint Parties proposals.

Among other proposed changes, the Joint Parties propose to move Station KNRQ-FM from Channel 250C to Channel 300C. This is an essential element of the Joint Parties interconnected plan since no channel other than 300 can serve as a Class C channel at KNRQ-FM's transmitter site and meet the Commission's mileage separation rules. However, Channel 300C cannot be used at the KNRQ-FM transmitter site.

As documented in the Cumulus Reply Comments, the operation of Channel 300C at the KNRQ-FM transmitter site creates the potential for electromagnetic interference to regional air navigation aid signals operated by the FAA in connection with the major airport serving Eugene, Oregon - the Mahlon Sweet Field Airport. In the opinion of the air safety expert retained by Cumulus, the proposed operational Channel 300C at the KNRQ-FM transmitter site will be regarded as having a significant adverse impact on the navigable airspace and warrant a determination of hazard by the FAA. A similar FAA air safety concern is created, and documented in the Cumulus Reply Comments, relating to the Joint Parties plan to assign Channel 300C2 in lieu of Channel 272C2 at Goldendale, Washington, where it would be used by Station KYYT. In the case of the use of Channel 300 at Goldendale, the adverse impact on air safety would involve the Columbia Gorge Regional Airport serving The Dalles, Oregon area.

One of the Joint Parties, Columbia Gorge Broadcasters, Inc., proposes to move Station KACI-FM, The Dalles, Oregon to Tualatin, Oregon. However, that aspect of the complex

channel realignment depends on Station KNRQ-FM operating on Channel 300C, and even if the use of Channel 300C was feasible, the proposed move of Station KACI-FM results in a substantial service area loss, including a white area of 646 persons in 414.7 square kilometers and a gray area of 1,502 persons in 464.9 square kilometers, and even larger areas and populations that will have fewer than five off-air aural services after KACI-FM is relocated.

The overall plan of the Joint Parties is interrelated and if one aspect of it is not feasible, the remaining proposed changes likewise falter. Since the Joint Parties proposals are not capable of being completed, the Petition should be dismissed.

Finally, the appropriateness of processing the Petition as a counterproposal to a counterproposal filed by SSR Communications Incorporated is suspect and easily could have been remedied had the Joint Parties desired. This procedural defect also warrants the dismissal of the Petition as a counterproposal in MB Docket No. 05-10.

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To: Marlene H. Dortch, Secretary

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**REPLY COMMENTS OF CUMULUS LICENSING LLC**

Cumulus Licensing LLC ("Cumulus"), by counsel and in accordance with the Commission's Public Notice released October 4, 2005 (Report No. 2727), submits the following Reply Comments in MB Docket No. 05-10 in response to the Petition for Rulemaking (RM-11279) filed by the Joint Parties identified below. Cumulus is the licensee of Class C FM station KNRQ-FM, Eugene, Oregon, which operates on Channel 250C. Among other proposals, the Petition would move KNRQ-FM from Channel 250C to Channel 300C. For the reasons set forth below, Cumulus strongly opposes the proposed forced change in its operating channel, and also opposes the Petition as procedurally and substantively defective.

**Preliminary Statement**

1. On March 21, 2005, Portland Broadcasting, L.L.C., licensee of KXPC-FM, Lebanon, Oregon ("PBL"), Columbia Gorge Broadcasters, Inc., licensee of KACI-FM, The Dalles, Oregon ("Columbia"), M.S.W. Communications, LLC, licensee of KMSW, The

Dalles, Oregon ("MSW"), and Extra Mile Media, Inc., licensee of KHPE, Albany, Oregon ("Extra" and together with PBL, Columbia and MSW, the "Joint Parties") filed a pleading captioned as a Petition for Rule Making (the "Petition").<sup>1</sup> The Petition involves a rather complex series of allegedly interlocking channel and community changes to the FM Table of Allotments, and is now being considered by the Commission as a counterproposal to the initial modest request by Klickitat Broadcasting ("Klickitat") to assign Channel 266A to Monument, Oregon (MB Docket No. 05-10). Since the Commission is treating the Petition as a counterproposal to the Monument proceeding, it will be helpful to note the regulatory process by which the Petition was converted to a counterproposal therein.

2. SSR Communications Incorporated Counterproposal. SSR Communications Incorporated ("SSR") filed a Counterproposal and Request for [Order to] Show Cause in the Monument rule making proceeding on March 21, 2005 (the "Counterproposal"). SSR proposed five new allotments, including the gratuitous allocation of 280C to Monument, Oregon in place of Klickitat's request for a Class A channel. The Counterproposal also requested, among other things, the issuance of an order to show cause to require KWPK-FM, Sisters, Oregon to move from Channel 281C2 to 282C2.<sup>2</sup> The critical element in the Counterproposal for purposes of the Joint Parties' Petition is the allotment of a Class C station

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<sup>1</sup> Apparently in their haste to file the Petition on March 21, 2005, Joint Parties, and their supporting engineer, were obliged to file a substantial Erratum to the Petition on April 18, 2005 (the "Erratum"). References herein to the Petition will be to the final version, as edited, except as noted.

<sup>2</sup> At the time SSR filed its Counterproposal, Thunderegg Wireless, L.L.C. was the licensee of KWPK-FM. Horizon Broadcasting Group LLC ("Horizon") acquired the station on March 31, 2005. Horizon filed Reply Comments in the Monument proceeding on April 5, 2005 opposing the need for it to change from channel 281C2 to 282C2 at Sisters, Oregon.

on channel 280 at Monument, because that allocation provides the essential conflict that links the Monument proceeding to the Petition. This nexus between the Petition and the Monument proceeding has allowed the Petition to slide through procedurally as a counterproposal, rather than as an original petition for rulemaking as the filing was captioned.

3.     The Petition. As noted, the Joint Parties filed the Petition on March 21, 2005. The Petition involves multiple channel changes, changes in stations' communities of license and forced channel changes, including moving KNRQ-FM from Channel 250C to Channel 300C. However, there are serious defects in the Petition with respect to several critical alterations to the FM Table of Allotments that mandate its dismissal. And, as noted above, the essential nexus between the Monument proceeding and the Petition - the conflict between SSR's request to allocate Channel 280C to Monument and the Joint Parties proposal to move KXPC-FM, licensed to PBL, from Lebanon, Oregon on Channel 279C to the same frequency at Paisley, Oregon, could easily have been resolved had the Joint Parties been interested in doing so. As detailed below, the Petition is procedurally and substantively defective and should be dismissed without further consideration.

**The Petition Is Unnecessarily and Improperly  
Being Processed as a Counterproposal to the SSR Counterproposal**

4.     On April 5, 2005, the Joint Parties filed Reply Comments in the Monument proceeding noting that the Counterproposal filed by SSR included the allotment of Channel 280C to Monument, creating *for the first time* a conflict between the Petition and the Monument rule making proceeding. The Joint Parties also noted that the SSR Counterproposal would create, if adopted, a short spacing of 30.50 kilometers to the allocation of Channel 279C

at Paisley, a deficiency "which is too significant to eliminate with a slight modification of reference coordinates."<sup>3</sup> The engineering report states as follows:

The SSR counterproposal appeared in the Commission's filing data April 1st. Therefore the Joint Parties engineering firm has not had an opportunity to explore any options. It appears that line of sight limitations for channel 279C at Paisley greatly limit the ability to keep the channel 280C filing at Monument and channel 279C at Paisley from being mutually exclusive.<sup>4</sup>

5. On June 2, 2005, the Joint Parties filed Reply Comments in response to the SSR Counterproposal, noting again the unanticipated conflict with the SSR's proposal. The Joint Parties again turned to Reynolds Technical Associates for support. Surprisingly, even though two months had passed between these two Joint Parties filings, the same comment, verbatim, was made by the engineering consultants.<sup>5</sup> Given this supposedly insoluble situation, the Joint Parties urged the Commission to accept their Petition "as a valid counterproposal in MB Docket No. 05-10 and [have it] placed on a Supplemental Public Notice."<sup>6</sup> The Commission accepted this request and issued the Public Notice on October 4, 2005 to which the instant Reply Comments of Cumulus are being filed.

6. Had Joint Parties tried a little harder, they could have easily found options aside from a change in site for the Paisley allocation that would have removed any conflict between the SSR Counterproposal and the Joint Parties Petition. For example, as noted in the attached Engineering Statement of Jefferson Brock of Graham Brock, Inc. (the "Brock Statement") at least two Class C channels – 287 and 246 – could be used at the Joint Parties preferred

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<sup>3</sup> *Joint Parties Reply Comments*, at 2 and at 1 of Reynolds Engineering Report (April 5, 2005).

<sup>4</sup> *Id.*

<sup>5</sup> *Reply Comments of the Joint Parties*, Reynolds Technical Associates' Engineering Statement, pg. 2 (June 2, 2005).

<sup>6</sup> *Joint Parties Reply Comments*, MM Docket No. 05-10, RM 11140, at 2 (June 2, 2005).



transmitter site for KXPC-FM at Paisely.<sup>7</sup> In sum, it appears that the Joint Parties could have unhooked their Petition from the SSR Counterproposal at any time had they wanted to do so.<sup>8</sup>

**Channel 300C Cannot Be Assigned to KNRQ-FM**

7. A substantial portion of the Petition addresses the reallocation of KACI-FM from Channel 249C2 at The Dalles, Oregon to Channel 250C2 at Tualatin, Oregon. This move, however, requires Station KNRQ-FM, licensed to Eugene, Oregon to move from Channel 250C to Channel 300C. As detailed in the Brock Statement and discussed above, Channel 300C cannot be used at the KNRQ-FM transmitter site. The use of Channel 300C in lieu of 250C will create electromagnetic interference at nearby Mahlon Sweet Field Airport, the major airport serving the Eugene area, and will be deemed to be a hazard to air navigation by the FAA.<sup>9</sup> This conclusion is supported by the analysis prepared by and conclusions reached by Gary M. Allen, President of Aviation Systems, Inc. ("ASI").<sup>10</sup> No Class C channel, other than 300, can be allocated at the KNRQ-FM transmitter site and meet the FCC mileage separation rules, and since Channel 300 cannot be used there, this critical element of the

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<sup>7</sup> Brock Statement at 4-5.

<sup>8</sup> The ease in finding solutions to this rule making conflict is also evidenced with another aspect of the SSR Counterproposal. Horizon, as noted, the licensee of KWPK-FM, Sisters, Oregon, objected to moving from its existing channel 281C2 to 282C2, a move SSR argued was necessitated by its allocation of Channel 280C to Monument, Oregon (the same problem channel faced by the Joint Parties in Paisley). Horizon's consulting engineer (Hatfield & Dawson) found a better reference site for Channel 280C at Monument that would eliminate any conflict with KWPK-FM on Channel 281C2. The exercise prompted Hatfield & Dawson to comment that: "Indeed, SSR appears to have gone out of its way to select an allotment site for Channel 280C which conflicts with the present operation of KWPK-FM." See, Hatfield & Dawson Engineering Statement in support of Horizon Reply Comments, pg. 1. (April 5, 2005).

<sup>9</sup> Brock Statement at 2.

<sup>10</sup> Brock Statement, Mr. Allen's Report.

Petition fails and the remainder of the Joint Parties proposals, including the move of KACI-FM to Tualatin, likewise flounders.

**The Move of KACI-FM to Tualatin, Oregon**  
**Would Create Unacceptable Loss Areas**

8. In addition to the fatal defect that KNRQ-FM cannot be moved to Channel 300C, the Petition fails to demonstrate that it is in the public interest to move KACI-FM from The Dalles, Oregon in light of the substantial area of lost service created by the proposed relocation.

9. The Joint Parties propose to change the community of license of KACI-FM, Channel 249C2, The Dalles, Oregon to Channel 250C2 at Tualatin, Oregon. They promote that this change in community creates “[n]o white or gray area[s]”<sup>11</sup> However, other than this bare assertion, a detailed gain and loss analysis is not provided by the Joint Parties. The Brock Report concludes otherwise. In fact, this proposed change in community will result in the creation of a white area of 646 persons in 414.7 square kilometers, and a gray area of 1,502 persons in 464.9 square kilometers.<sup>12</sup> In addition, 7,442 citizens in 1701.7 square kilometers lose their third station, 2,528 citizens in 1,261.8 square kilometers lose their fourth station, and 2,374 residents in 609.9 square kilometers lose their fifth station.<sup>13</sup>

10. A community’s reliance and expectation that service will continue is a presumption that the Commission considers whenever a change in community is proposed,<sup>14</sup>

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<sup>11</sup> Petition at 3.

<sup>12</sup> Brock Statement at 5.

<sup>13</sup> *Id.*

<sup>14</sup> *See, e.g.,* In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wallace, Idaho and Bigfork, Montana), *Report and Order*, 16 FCC Rcd 9591, para. 8 (2001).

confirming the Commission's stated policy is that a community "has a legitimate expectation that existing service will continue."<sup>15</sup> When considering a change in community that will result in white and gray areas, as is the case here, a petitioner has the burden to demonstrate that the service benefits outweigh the service detriments.<sup>16</sup> The creation of white and gray spaces is a tremendous detriment that few petitioners can overcome.<sup>17</sup> The Joint Parties have failed to meet this burden, in part because their engineering analysis erroneously concludes that no white area would be created. Because of this flawed conclusion they have clearly not met this burden and provided no showing that the benefits of this change in community outweigh its loss of service.

**The Gratuitous Upgrade of KMSW, The Dalles  
from Channel 224C3 to 272C2 Is Unwarranted**

11. Somewhat as an afterthought, the Joint Parties opine that MSW, which operates KMSW on Channel 224C3 at The Dalles, "wishes to upgrade KMSW to Channel 272C2."<sup>18</sup> No support for this non-adjacent channel upgrade is offered other than that it could be done if a proposed change in channels at Goldendale, Washington is adopted, another aspect of the overall plan that will not happen for the reasons discussed in the following paragraph. The upgrade of KMSW to a higher class on a non-adjacent channel is not a necessary step required

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<sup>15</sup> In the Matter of Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, *Memorandum Opinion and Order*, 5 FCC Rcd 7094, para. 19 (1990).

<sup>16</sup> *Id.*

<sup>17</sup> In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Silverton and Bayfield, Colorado), *Report and Order*, 14 FCC Rcd 21502, paras. 5-7 (1999) (ruling that the creation of a white space to 46 people and a gray space to 457 outweighed gain of service to 44,681 people). The Commission states in the case that "we would normally be reluctant to grant a proposal that would result in the loss of service to unserved/underserved areas."

<sup>18</sup> Petition at 13.

in order to accommodate any of the other changes proposed by the Joint Parties. Rather, it simply seems that a better channel could be allocated to The Dalles so why not assign it to MSW without its availability being subjected to any counterproposals or competing expressions of interest. Although for the reasons set forth herein, the FM channel reallocations proposed in the Petition will not move forward, Cumulus, nevertheless, notes that it would have an interest in and would file an application for Channel 272C2 at The Dalles and would participate in an auction for that channel should it be so assigned.<sup>19</sup> See, attached Declaration of Lewis W. Dickey, Jr., President and CEO of Cumulus, confirming its interest in the channel.

**Channel 300C2 Cannot Be Allocated to Goldendale, Washington**

12. As noted, in order to allot Channel 272C2 to The Dalles, it is necessary to change the channel on which Station KYYT, Goldendale, Washington operates. KYYT would then be required to move from Channel 272C2 at Goldendale to Channel 300C2. Apparently, at the time the Petition was filed, Haystack Broadcasting, Inc. ("Haystack"), licensee of KYYT, had not agreed to move from Channel 272C2 to Channel 300C2.<sup>20</sup> As reported by the Joint Parties in a Supplement filed on July 12, 2005, the Joint Parties have reached agreement with Haystack on the proposed change in channels. Unfortunately for the Joint Parties and Haystack, this aspect of their Petition also runs afoul of the frequencies utilized by airports and pilots, in this case facilities utilized the Columbia Gorge Regional Airport serving The Dalles,

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<sup>19</sup> In the Matter of Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations (Colonial Heights, Tennessee), *Memorandum Opinion and Order*, DA 00-25, (January 7, 2000) (the lack of a competing expression of interest resulted in a non-adjacent channel upgrade that was included as part of a counterproposal).

<sup>20</sup> Petition at pgs. 13-14.

Oregon area. Again, the Joint Parties proposal for Channel 300C2 to be allotted to Goldendale raises the fatal specter of a hazard to air navigation and a determination of hazard by the FAA.<sup>21</sup> As is also the case with the proposed allocation of Channel 300C at Eugene, Channel 300C2 is the only channel that could be used at KYYT transmitter site and meet the FCC mileage separation rules.

**The Proposed Reallotment of Channel 279C from  
Lebanon, Oregon to Paisley, Oregon Is Defective**

13. The Joint Parties request that the Commission make a change in the community of license of KXPC-FM from Lebanon, Oregon to Paisley, Oregon, a geographic trek of about 174 miles.<sup>22</sup> This channel rearrangement is a necessary link in the overall proposal and appears to be designed to find a “white area” that could be served. While critical to their request from the Commission, little is offered to document that this rearrangement is in the public interest.<sup>23</sup> The Commission is required to distribute broadcast facilities among the several states and communities in a fair and equitable manner pursuant to Section 307(b) of the Communications Act of 1934, as amended,<sup>24</sup> and any analysis must include a balancing of service lost against the area served around Paisley. However, no such balancing is necessary in this proceeding because as noted above, at least two other Class C channels (246 and 287) can operate at the Joint Parties’ preferred transmitter site for Paisley.

14. However, before reaching the gains and losses calculus, a more basic question is whether Paisley qualifies as a “community.” When dealing with a “community” with only 247

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<sup>21</sup> Brock Statement at pgs. 2-3 and the Allen Report.

<sup>22</sup> Petition at 12.

<sup>23</sup> *Id* at 12-13.

<sup>24</sup> 47 U.S.C. §307(b).

residents, a harder look is required than just whether it is incorporated or is listed in Census reports. The Commission must consider other factors in determining what constitutes a community in this case, including whether the community is listed in a commercial atlas; whether it is an incorporated legal authority with some form of community government; whether there are municipal services, such as schools, police, fire protection, libraries, sewer, water, and trash collection, provided by the local government to the community; whether there is community-based police, fire and other public safety entities that serve the residents of the community; whether the community has a local newspaper, its own zip code and/or area code; whether it has a community based public transportation system and health facilities; whether it has places of worship in the community; and whether banks and other commercial establishments are located in the community.<sup>25</sup>

15. The population of Paisley according to the 2000 Census is 247 down from 350 (a decrease of 30%) in the 1990 census. Although Paisley is listed on a commercial atlas and has a city council, library, K-12 school, post office, fire department, seven seemingly small commercial businesses are identified, three churches, and a zip code it does not qualify as a "community" under Section 307(b). Paisley is rapidly losing population and in just ten years between the 1990 census and the 2000 census 30% of its citizens ventured elsewhere. In contrast, the U.S. Census reports that the population of Lebanon increased from 10,950 in 1990 to 12,950 in 2000, a 18.26% increase.

16. The Joint Parties argue that the Commission should approve their change in community proposal because Paisley is an unserved area. Weighed against this alleged benefit

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<sup>25</sup> In re Application of Faye & Richard Truck, Inc., *Memorandum Opinion and Order*, 3 FCC Rcd 5374, 5378 (1988).


is the countervailing fact that over 1 million Oregonians will lose an established signal, if channel 279C is removed from Lebanon.<sup>26</sup> The Joint Parties demonstrate that the white area which includes Paisley has a total population of 2,287, in a coverage area that would be 20,966 square kilometers.<sup>27</sup> Given Paisley's minute size, the sparsely populated service area, the loss of service to over 1 million persons in the Lebanon area, and lack of Paisley satisfying all the "community" factors – it is not in the public interest for the Commission to approve the change in community of license request for KXPC-FM. Moreover, as noted herein, if there is a need for a Class C facility to serve Paisley, Cumulus has identified at least two channels that will work at the Joint Parties preferred site.

### Conclusion

17. For the myriad of reasons discussed herein, the Joint Parties has terminal substantive and procedural defects that require its dismissal.

Respectfully submitted,

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<sup>26</sup> Petition at 11.

<sup>27</sup> Petition at Exhibit E, figure 13.

**TECHNICAL COMMENTS**  
**MB DOCKET #05-10**  
**CUMULUS LICENSING LLC**  
**KNRQ RADIO STATION**  
**EUGENE, OREGON**  
**October 2005**

**TECHNICAL STATEMENT**

This technical statement and attachments were prepared on behalf of Cumulus Licensing LLC ("Cumulus"), licensee of station KNRQ, Channel 250C, Eugene, Oregon. Cumulus submits these comments in response to a Commission Public Notice regarding the submission of a counterproposal in MB Docket # 05-10. Specifically, Portland Broadcasting, LLC, et al ("PBL"), has requested a series of allocation changes which, in part, propose the substitution of Channel 300C for Channel 250C at Eugene, Oregon, and request that KNRQ be ordered to change channels. PBL's petition was treated as a counterproposal due to a mutually exclusive proposal contained in a counterproposal submitted by SSR Communications Incorporated ("SSR") in MB Docket #05-10.<sup>1</sup>

**DISCUSSION**

The PBL proposal seeks to relocate KNRQ to Channel 300C from Channel 250C to accommodate the relocation of station KACI-FM, Channel 249C2, The Dalles, Oregon to Channel 250C2 at Tualatin, Oregon. While Channel 300C does meet the Commission's minimum distance separation requirements at the authorized KNRQ site, it is not a viable

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1) Due to the complexity of the PBL and SSR requests, we will not outline the various requests.



channel. As indicated in the attached Exhibit #1, an electromagnetic interference analysis was undertaken by Aviation Systems, Inc. ("ASI"), an Aeronautical Engineering firm, which shows that the suggested use of Channel 300C at Eugene, Oregon, will cause electromagnetic interference to the Federal Aviation Administration ("FAA") facility at Mahlon Sweet Field at Eugene, Oregon. The resulting interference will impact aircraft using this FAA navigational aide. The FAA has been notified of the potential change in frequency for its analysis. Once the FAA issues its expected Determination of Hazard, it will be submitted to the Commission. Based on these findings, the use of Channel 300C at Eugene is not viable.<sup>2</sup>

A review of alternate channels also revealed that none of the remaining commercial channels (aside from the present Channel 250C) can be used as an alternate channel for KNRQ. As noted on Exhibit #2, there are no alternate Class C channels which can be implemented at the KNRQ site. As such, there is no channel to which KNRQ can be relocated that would enable the proposed change in community of license for station KACI-FM at The Dalles, Oregon.

Further, Cumulus also notes that another substitution proposed by PBL suggests the use of Channel 300C2 at Goldendale, Washington. This proposed change is for station KYYT, Channel 272C2, Goldendale. PBI is seeking a substitution of channels for KYYT to allow for yet another substitution, Channel 272C2 for Channel 224C3 at The Dalles, Oregon. Channel 224C3 is

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2) Cumulus is the permittee of station KQHN, Channel 300C2, Oil City, Louisiana (BPH-20030610ADI). KQHN commenced operation under its permit and was ultimately ordered to cease operations by the FCC, FAA and U.S. Air Force due to interference to navigational aides in the Shreveport, Louisiana area. Cumulus is in the process of changing channels at KQHN to Channel 247C2 to eliminate the issues and return to operation. As such, Cumulus is keenly aware of the potential impact of the use of Channel 300 when there is predicted interference to FAA facilities.

occupied by station KMSW. A second study has been conducted which shows the use of Channel 300C2, with a maximum class facility, will have an adverse effect on the localizer at the Columbia Gorge Regional Airport at The Dalles, Oregon. As noted in Exhibit #3, a report from ASI shows that the FAA facility will receive interference from the potential use of Channel 300C2 at the KYYT site coordinates. The FAA has also been requested to study the use of this channel at the KYYT location. Once the FAA issues its anticipated Determination of Hazard, a copy will be provided to the Commission. Therefore, the use of Channel 300C2 at Goldendale, Washington is not a feasible substitution. A search for alternate channels which would accommodate the removal of Channel 272C2 at Goldendale, Washington did not reveal any viable channels (Exhibit #4).

As a result of the review of the potential use of Channel 300 at both Eugene, Oregon and Goldendale, Washington, (and the lack of alternate channels for substitution at each location), PBL's proposed change of community of license for station KACI-FM cannot be implemented and should not be considered further.

Additionally, Cumulus notes that PBL also claims that there would be no white area created by the proposed relocation of station KACI-FM from The Dalles to Tualatin, Oregon.<sup>3</sup> However, as a result of the preclusion for the upgrade for station KMSW from Channel 224C3 to

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3) PBL petition, Engineering Section at Page 7.

Channel 272C2 at The Dalles, Oregon, white area is created.<sup>4</sup> As shown on Exhibit #5, were KACI-FM to move to Tualatin, Oregon, its relocation would cause several under-served areas to lose service, including an area which receives service only from KACI-FM.<sup>5</sup> As indicated in Exhibit #5, the present 60 dBu contour of KACI-FM will be withdrawn from areas to the north, northeast, east and southeast, which now receive service from the station.<sup>6</sup> This loss area contains white area (no other service) to 646 persons in 414.7 square kilometers. Additionally, KACI-FM provides second service to 1,502 persons in 464.9 square kilometers; third service to 7,442 persons in 1701.7 square kilometers; fourth service to 2,528 persons in 1,261.8 square kilometers; and fifth service to 2,374 persons in 609.9 square kilometers.<sup>7</sup>

While Cumulus has shown the various technical deficiencies associated with the PBL proposal, it recognizes that the denial of the PBL request would leave Paisley without a potential service. Should the Commission deem Paisley as deserving of an FM allotment, Cumulus suggests that Channel 287C be allotted, in lieu of Channel 279C. As indicated on Exhibit #6,

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- 4) In order to substitute Channel 272C2 for Channel 224C3 at The Dalles, Channel 300C2 (or another channel) must be substituted for Channel 272C2 at Goldendale, Washington. As has been shown, there are no alternate channels for Goldendale, which in turn precludes the proposed change at The Dalles.
  - 5) These under-served areas presently receive service from KACI-FM and KMCQ, Channel 283C, The Dalles, Oregon. However, in MB Docket #02-136, KMCQ was ordered to Channel 283C3 at Covington, Washington. KMCQ already has an outstanding permit at Covington. Once it implements the change, KACI-FM will be the last remaining service in under-served area.
  - 6) Assuming uniform terrain for KACI-FM operating with maximum Class C2 facilities.
  - 7) To determine services, all full time AM stations, and commercial and non-commercial FM stations in the area were reviewed. For AM Class A stations, the nighttime 0.5 mV/m contour was used for a service contour; all other AM stations nighttime interference free signals were calculated and used for service contributions. For FM commercial stations, maximum facilities were used for each Class, except A. Some Class A stations were considered 3.0 kilowatt Class A stations, while others were depicted as 6.0 kilowatt Class A stations, based on their operating facilities, or spacing review. Class C FM stations are depicted based on the 60 dBu computed using the stations power and height above average terrain. Any non-commercial FM station's 60 dBu reference contour was determined from its licensed facility. Aside from AM facilities, the FM contours assumed uniform terrain.

Channel 287C meets the Commission's minimum distance separation requirements at the site specified by PBL for its proposed Channel 279C request, at North Latitude 42° 56' 23" and West Longitude 120° 13' 14". From this location, a maximum Class C facility will provide the requisite 70 dBu into Paisley. The channel is readily available, without any further channel changes.<sup>8</sup>

Cumulus also notes that the proposed channel allotments at Prairie City, Oregon and Prineville, Oregon, requested by SSR, are located at non-viable sites. Specifically, the SSR proposal to allot Channel 265C at Prairie City, Oregon, specifies a site well within the boundaries of the Malheur National Forest. Further, the proposed allocation coordinates for the allotment of Channel 267C1 at Prineville, Oregon are located well within the boundaries of the Ochoco National Forest. Therefore, without evidence to the contrary, it is believed that these reference sites are not buildable locations (not suitable for tower construction) and the channels should not be allotted.

In summary, the PBL proposal does not provided viable channels for substitution at either Eugene, Oregon or Goldendale, Washington and would cause a loss of first service to persons presently within the KACI-FM projected allocation contour. As such, the PBL request should be returned without further consideration.<sup>9</sup>

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8) Channel 246C is also available for allotment at Paisley at the same reference site.

9) Similarly, the proposed SSR allocations sites at Prairie City, Oregon and Prineville, Oregon, both of which are located in National Forests, should be denied.

The foregoing technical comments were prepared on behalf of Cumulus Licensing LLC by Graham Brock, Inc., its Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge. All data relating to AM and FM facilities was extracted from the CDBS database. We assume no liability for errors or omissions in those databases which may be adverse to the proposes contained herein.

October 19, 2005

Mr. Gary Kline  
Cumulus Media  
PO Box 4555  
Lafayette, IN 47903

**EXHIBIT #1**  
**TECHNICAL COMMENTS**  
**MB DOCKET #05-10**  
**CUMULUS LICENSING LLC**  
**KNRO RADIO STATION**  
**EUGENE, OREGON**  
**October 2005**

Re: Goldendale 1, WA EMI Issue, Our File Number 05-S-0378.011

Dear Mr. Kline:

As you requested Aviation Systems Inc. ("ASI") has evaluated a hypothetical transmission on Channel 300, 107.9 MHz, in the Goldendale Washington area with respect to potential electromagnetic interference ("EMI") to regional air navigation aid ("Navaid") signals operated by the Federal Aviation Administration ("FAA").

The EMI evaluation was done with the FAA Airspace Analysis Model ("AAM") Version 5. The location of the antenna programmed into the AAM was north latitude 45°40'53" west longitude 120°54'30" (in NAD 27) or north latitude 45°40'52.38" west longitude 120°54'34.48" (in NAD 83). The radiation center of the antenna was assumed to be at 472 meters (1,549 feet) above mean sea level ("AMSL") and the power was assumed to be 50 kW.

The FAA requires an investigation of the EMI potential on Nav aids within a 30 nautical mile ("NM") radius search from a new or altered RF emitter. For this search we found one (1) Localizer within that radial area. The Localizers' data are:

NAVAID	AIRPORT	FREQUENCY	LATITUDE	LONGITUDE	RUNWAY
DLS LOC	Columbia Gorge Regional Airport, The Dalles, OR	109.35 MHz	45°37'07"	121°09'43"	25

The EMI simulation was run horizontally at the bottom of the Frequency Protected Service Volumes ("FPSV") for the DLS LOC and vertically through the localizer course heading (268 ° T).

The AAM predicted the following EMI potential at the DLS LOC:

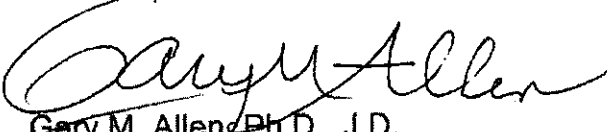
LOC	A2/B2 OVERLOAD	2-SIGNAL INTERMOD COMBINATIONS	3-SIGNAL INTERMOD COMBINATIONS
DLS	881 Horizontal Pts. and 0 Vertical Pts.	1,018 Horizontal Pts. and 11 Vertical Pts.	4 combinations with the worst case showing 752 Horizontal Points and 11 Vertical Points.

### **Conclusion**

The AAM unquestionably shows a considerable EMI potential for aircraft on approach to Runway 25 at Columbia Gorge Regional Airport which according to FAA policy would be regarded as a significant adverse impact on the navigable airspace and warrant a Hazard Determination.

Thank you for the opportunity to be of service. We look forward to assisting you again in the future.

Sincerely,



Gary M. Allen Ph.D., J.D.  
President and General Counsel

Attachments

# Airspace Analysis Model, Version 5.0

## Airspace Case:

Site: KNRQ-FM  
Date: 10/07/05

Facility Identifier: EUG  
Facility Frequency: 109.500 MHz

Facility Latitude: 44° 06' 34"  
Facility Longitude: 123° 13' 08"

Runway Heading: 180.0 deg (true)  
Runway Elevation: 364 ft MSL  
Runway Length: 8009 ft

Prop ID	Call	Freq MHz	Latitude	Longitude	ERP kW	Height ft MSL	Range nmi	Radial true	Lic
1	KWVA	88.100	44 02 40	123 04 39	0.5000	561	7.24	302.62	LIC
2	KGRI	88.100	44 28 59	122 34 55	0.0043	3993	35.37	230.66	CP
3	NEWx	88.300	43 46 38	123 02 33	0.0300	1509	21.34	339.08	APP
4	9808	88.300	44 17 35	123 32 15	0.0063	1111	17.58	128.79	APP
5	K203	88.500	44 00 04	123 06 23	0.0005	1111	8.11	323.27	APP
6	K203	88.500	44 01 58	123 00 23	0.0010	1111	10.25	296.66	APP
7	K203	88.500	44 06 58	122 59 50	0.0003	1111	9.56	267.60	LIC
8	9901	88.500	44 16 48	123 34 57	0.6300	3461	18.69	123.19	APP
9	KBVR	88.700	44 33 50	123 16 30	0.3400	381	27.37	174.95	LIC
10	KQFE	88.900	44 00 11	123 06 48	1.2500	1604	7.84	324.51	LIC
11	KLCC	89.700	44 00 05	123 06 48	81.0000	1791	7.92	324.93	LIC
12	K211	90.100	44 07 28	124 00 41	0.1000	2133	34.15	91.51	LIC
13	KAJC	90.100	44 45 33	123 13 34	1.0000	492	38.98	179.55	APP
14	K212	90.300	44 00 08	123 06 50	0.0005	1111	7.87	324.86	LIC
15	K212	90.300	44 38 45	123 16 13	0.1800	1532	32.26	176.08	LIC
16	K212	90.300	44 38 46	123 16 11	0.0003	1111	32.27	176.13	CP
17	KWBX	90.300	44 52 57	122 57 34	0.0035	1111	47.69	193.46	LIC
18	K214	90.700	44 11 47	122 59 12	0.0003	1111	11.28	242.44	LIC
19	K214	90.700	44 11 47	122 59 12	0.0100	3323	11.28	242.44	APP
20	KWAX	91.100	44 00 04	123 06 45	21.5000	1844	7.96	324.79	LIC
21	KWAX	91.100	44 33 50	123 16 30	0.0500	364	27.37	174.95	APP
22	K217	91.300	44 41 00	122 46 54	0.0200	1263	39.20	208.56	LIC
23	K218	91.500	43 46 38	123 02 33	0.0800	1480	21.34	339.08	LIC
24	KRVM	91.900	44 00 08	123 06 50	1.1000	1398	7.87	324.86	LIC
25	KHRB	92.300	44 16 21	123 10 15	111.1111	348	10.00	191.93	LIC
26	K223	92.500	43 46 38	123 02 33	0.2500	1545	21.34	339.08	LIC
27	NEWx	92.500	44 33 32	123 07 31	0.1600	335	27.26	188.47	APP
28	K224	92.700	44 11 47	122 59 12	0.0100	3238	11.28	242.44	CP
29	NEWx	92.700	44 38 45	123 16 13	0.0100	1519	32.26	176.08	APP
30	KKNU	93.100	44 00 04	123 06 45	100.0000	1929	7.96	324.79	LIC
31	NEWx	93.500	44 00 07	123 06 53	0.0200	1621	7.86	325.15	APP
32	NEWx	93.500	44 11 53	122 59 07	0.0003	1111	11.38	242.14	APP
33	K230	93.900	43 46 38	123 02 33	0.2500	1575	21.34	339.08	LIC
34	K231	94.100	44 51 18	123 07 15	0.0200	1280	44.93	185.36	LIC
35	KMGE	94.500	44 00 04	123 06 45	49.0000	1929	7.96	324.79	LIC
36	KPIE	94.700	44 52 54	123 24 06	111.1111	771	46.99	170.42	LIC
37	K235	94.900	44 00 08	123 06 50	0.0200	1440	7.87	324.86	CP



38	KRAD	94.900	44 39 03	123 00 59	111.1111	525	33.62	194.97	LIC
39	KUJZ	95.300	44 00 04	123 06 45	0.6300	1864	7.96	324.79	LIC
40	NEWx	95.700	44 00 08	123 06 50	0.0200	1457	7.87	324.86	APP
41	NEWx	95.700	44 03 10	123 06 37	0.0800	515	5.79	305.99	APP
42	NEWx	95.700	44 33 56	123 20 02	0.0800	794	27.81	169.78	APP
43	KZEL	96.100	44 00 05	123 06 48	100.0000	1722	7.92	324.93	LIC
44	K244	96.700	43 46 38	123 02 33	0.2500	1509	21.34	339.08	LIC
45	K244	96.700	44 38 25	123 16 25	0.2500	1539	31.94	175.79	LIC
46	K245	96.900	44 00 11	123 06 48	0.0063	1111	7.84	324.51	LIC
47	K248	97.500	43 46 41	123 02 33	0.2500	1568	21.29	339.03	LIC
48	NEWx	97.700	44 51 18	123 07 15	0.0200	1243	44.93	185.36	APP
49	KNRQ	97.900	44 00 08	123 06 50	100.0000	1640	7.87	324.86	LIC
50	K252	98.300	44 04 00	123 37 42	0.0003	1111	17.83	81.72	LIC
51	KODZ	99.100	44 06 56	122 59 56	100.0000	2421	9.48	267.78	LIC
52	NEWx	99.100	44 49 44	123 00 56	0.1400	774	44.04	191.40	APP
53	K258	99.500	44 02 00	123 00 22	0.0400	1198	10.25	296.47	CP
54	K258	99.500	44 06 58	122 59 50	0.0100	2205	9.56	267.60	APP
55	KRKT	99.900	44 38 46	123 16 11	100.0000	1581	32.27	176.13	LIC
56	KCGR	100.500	43 44 41	123 05 29	6.0000	1211	22.57	345.87	LIC
57	K263	100.500	44 24 52	122 44 22	0.2500	863	27.56	228.39	LIC
58	K264	100.700	44 38 45	123 16 13	0.0200	1598	32.26	176.08	LIC
59	K265	100.900	44 00 07	123 06 53	0.0005	1111	7.86	325.15	LIC
60	KFLY	101.500	44 17 28	123 32 18	27.5000	3406	17.54	128.42	LIC
61	KFLY	101.500	44 38 24	123 16 25	100.0000	1611	31.92	175.78	APP
62	K270	101.900	44 11 53	122 59 07	0.0003	1111	11.38	242.14	CP
63	KEHK	102.300	44 00 08	123 06 50	100.0000	1568	7.87	324.86	LIC
64	K274	102.700	44 51 14	123 07 22	0.2500	1207	44.86	185.26	CP
65	K275	102.900	44 02 01	123 00 25	0.0010	1111	10.21	296.47	LIC
66	KPIK	102.900	44 41 00	122 46 54	111.1111	1276	39.20	208.56	LIC
67	K276	103.100	44 38 24	123 16 25	0.0200	1552	31.92	175.78	LIC
68	NEWx	103.300	43 46 41	123 02 33	0.1000	1516	21.29	339.03	APP
69	NEWx	103.300	44 02 48	123 07 49	0.2500	505	5.36	314.60	APP
70	KXPC	103.700	44 30 20	122 57 38	100.0000	1539	26.23	205.02	LIC
71	KXPC	103.700	44 34 49	122 30 07	90.0000	4380	41.77	227.44	CP
72	NEWx	104.100	44 19 20	123 19 05	0.0600	925	13.46	161.53	APP
73	NEWx	104.300	44 00 08	123 06 50	0.0200	1457	7.87	324.86	APP
74	NEWx	104.300	44 33 49	123 14 37	0.2500	443	27.27	177.77	APP
75	NEWx	104.300	44 33 56	123 20 02	0.0800	794	27.81	169.78	APP
76	NEWx	104.300	44 39 17	123 00 53	0.0800	820	33.87	194.98	APP
77	KDUK	104.700	44 17 35	123 32 15	62.0000	3406	17.58	128.79	LIC
78	KEUG	105.500	44 00 11	123 06 48	2.8000	1650	7.84	324.51	LIC
79	K290	105.900	44 29 02	122 34 55	0.0500	4029	35.40	230.60	LIC
80	KLOO	106.300	44 33 25	123 16 22	27.5000	335	26.95	175.08	LIC
81	KLOO	106.300	44 38 45	123 16 13	100.0000	1640	32.26	176.08	LIC
82	KSOW	106.700	43 45 06	123 04 29	0.0000	804	22.35	343.82	CP
83	KLVU	107.100	44 00 08	123 06 50	0.0063	1111	7.87	324.86	CP
84	KLVU	107.100	44 28 59	122 34 55	9.6000	4085	35.37	230.66	LIC
85	K297	107.300	44 11 47	122 59 12	0.1000	3281	11.28	242.44	CP
86	PROP	107.900	44 00 08	123 06 50	100.0000	1640	7.87	324.86	PRP
87	KHPE	107.900	44 38 46	123 16 11	100.0000	1660	32.27	176.13	LIC
88	VEUG	112.900	44 07 15	123 13 22	0.1500	380	0.70	166.22	VOR
89	VCVO	115.400	44 29 58	123 17 37	0.1500	265	23.62	172.19	VOR
90	CKPI	118.900	44 07 03	123 12 45	0.0003	453	0.56	209.64	COM
91	CMF1	119.100	44 54 35	123 00 28	0.0003	266	48.86	190.65	COM
92	CL18	119.600	44 07 29	123 13 31	0.0003	390	0.96	163.28	COM
93	CMKD	119.600	44 18 47	123 35 18	0.0003	3445	20.04	127.56	COM
94	CLA9	120.250	44 07 29	123 13 31	0.0003	390	0.96	163.28	COM
95	CMTE	120.250	44 18 47	123 35 18	0.0003	564	20.04	127.56	COM